

COURT OF CRIMINAL APPEALS No. CR 04-0651

**APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS**

FROM

CIRCUIT COURT OF LEE COUNTY, ALABAMA

CIRCUIT COURT NO. CC 1990 288.60 & CC 1990 289.60

CIRCUIT JUDGE HON ROBERT M HARPER

Type of Conviction / Order Appealed From: RULE 32 PETITION

Sentence Imposed: RULE 32 PETITION DISMISSED

Defendant Indigent: ☒ YES ☐ NO

JACKIE LAMAR JOHNSON

AMS#159385

PRO-SE

(Appellant's Attorney)

100 WARRIOR LANE

(Telephone No.)

(Address)

BESSEMER AL 35023-7299

(City)

(State)

(Zip Code)

V.

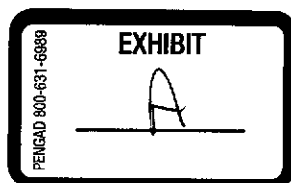
STATE OF ALABAMA

(e represented by Attorney General)

E: If municipal appeal, indicate above, and enter  
e and address of municipal attorney below.

NAME OF APPELLEE

(For Court of Criminal Appeals Use Only)



I N D E X

CASE ACTION SUMMARY -----	002
IN FORMA PAUPERIS DECLARATION -----	009
PETITION FOR RELIEF FROM CONVICTION OR SENTENCE -----	012
DISTRICT ATTORNEY'S RESPONSE AND MOTION FOR SUMMARY DISMISSAL OF DEFENDANT'S RULE 32 PETITION -----	027
ORDER -----	031
PETITIONER'S NOTICE OF APPEAL -----	032
CLERK'S CERTIFICATE OF COMPLETION -----	039

002

ACRO872 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 1990 000288.60  
 OPER: KAH CASE ACTION SUMMARY  
 PAGE: 1 CIRCUIT CRIMINAL  
 IN THE CIRCUIT COURT OF LEE RUN DATE: 10/29/2004  
 JUDGE: RMH

STATE OF ALABAMA

VS

JOHNSON JACKIE LAMAR  
 AIS#159385  
 100 WARRIOR LANE  
 BESSEMER, AL 35023 7299

CASE: CC 1990 000288.60

DOB: 08/12/1970 SEX: M RACE: B HT: 5 08 WT: 148 HR: BLK EYES:  
 SSN: 943000288 ALIAS NAMES:

CHARGE01: RULE 32-FELONY CODE01: RULE LIT: RAPE I TYP: F #: 001  
 OFFENSE DATE: AGENCY/OFFICER: 0430200

DATE WAR/CAP ISS:  
 DATE INDICTED: 03/15/1990  
 DATE RELEASED:  
 BOND AMOUNT: \$100,000.00

DATE ARRESTED: 02/13/1990  
 DATE FILED: 03/15/1990  
 DATE HEARING:  
 SURETIES:

DATE 1: DESC: TIME: 0000  
 DATE 2: DESC: TIME: 0000

TRACKING NOS:

DEF/ATY: PRO SE

TYPE: S

TYPE:

00000

00000

PROSECUTOR: ASBETT NICK

OTH CASE: 000000000000 CHK/TICKET NO:  
 COURT REPORTER: SID NO: 011277930 GRAND JURY: 00036  
 DEF STATUS: PRISON DEMAND: OPER: KAH

NOTE: 10/13/04 PETITION FOR RELIEF FROM CONVICTION OR SENTENCE  
 DATE ACTIONS, JUDGEMENTS, AND NOTES

10/13/04

Petition For Relief from Conviction or Sentence

10/13/04

also former Prejudice Declaration

State of Alabama Unified Judicial System		<b>CASE ACTION SUMMARY CONTINUATION</b>		Case Number CC 90-288	
Form C-7 Rev. 2/79				ID	YR
Style: State v. Johnson		Page Number <u>2</u> of <u>    </u> Pages		Number	
DATE	ACTIONS, JUDGMENTS, CASE NOTES				
4-4-90	On motion of State, due to absence of lab reports, this case is continued and is now reset for trial on June 4, 1990, at 8:30 A.M. <i>[Signature]</i>				
5-18-90	Motion for Consolidation of Offenses.				
5-23-90	State's Written Request for Discovery				
5-24-90	On State's Motion for Consolidation of Offenses, the Court hereby GRANTS said motion. <i>[Signature]</i>				
6-12-90	Defendant heretofore having been indicted and arraigned upon an indictment on a charge of <u>Rape I</u> and heretofore having plead not guilty thereto, issue joined on said plea. Thereupon comes a jury of good and lawful men and women, to-wit, <u>Jerry L. Smith</u> and eleven others, who being duly empanelled, sworn and charged by the Court according to law, before whom the trial of this cause was entered upon and continued from day to day and from time to time, said Defendant, <u>Jackie Lamar Johnson</u> , being in open Court at each and every stage and during all the proceedings in this cause, now on this the <u>12th</u> day of <u>June</u> , 19 <u>90</u> , said jurors upon their oaths do say: "We, the jury, find the Defendant, Jackie Lamar Johnson, guilty of Rape in the first degree as charged in the indictment. <u>Jerry L. Smith, Foreman</u> " In accordance with the verdict of the Jury/the defendant's plea of guilty; defendant is hereby adjudged guilty of <u>Rape I</u> as <u>charged</u> in the indictment. Defendant being asked if he had anything to say why the sentence of law should not be pronounced upon him, the defendant says nothing but presentence report is requested by <u>Defendant</u> . Sentencing and restitution hearing is set for July 25, 1990, at 9:00 A.M. Defendant is to be held without bond until said hearing. <i>[Signature]</i>				

## ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY  
CIRCUIT CRIMINAL

CASE: CC 90 000288 00

IN THE CIRCUIT COURT OF	LEE COUNTY	JUDGE: RMH
STATE OF ALABAMA	VS	JOHNSON JACKIE LAMAR
CASE: CC 90 000288 00		
CHARGE: RAPE I	TYPE: F	DATE WAR/CAP ISSUED: <u>  /  /  </u>
LITERAL: RAPE 1ST DEGREE		DATE ARRESTED: 02/13/90
DEFENDANT STATUS: OTHER		DATE HEARING: <u>  /  /  </u>
DEFENSE ATTORNEY: Hon. Thomas Rountree		DATE RELEASED: <u>  /  /  </u>
PROSECUTOR: MYERS, RONALD L		DATE ARRAIGNED: 03/22/90
OFFICER:	COUNSEL:	DATE TRIAL: 04/09/90
DATE OF BIRTH: 8-12-70		BOND/TYPE SURETIES:
RACE: N	SEX: M	BOND AMOUNT: \$000000 .00
ALIAS NAME:		DATE INDICTED: 03/15/90
AGENCY: MOPD		DATE FILED: 03/15/90
DC CASE NUMBER: 0 0 0		WORTHLESS CHECK NO: <u>          </u>
GRAND JURY NUMBER: 00036		COURT REPORTER: <u>          </u>
ADDITIONAL INFORMATION AND REMARKS:		SID NO: 001127793

DATE	ACTIONS, JUDGMENTS, CASE NOTES
3-15-90	Discovery Order It appearing to the Court that the Defendant is without and unable to employ counsel and upon Defendant's request that the Court appoint counsel to represent Defendant in this case, the Court hereby appoints Hon. <u>Thomas Rountree</u> Attorney-at-law, to represent Defendant.
3/22/90	On this day the defendant, with his attorney, Hon. <u>Thomas Rountree</u> , and after being advised by the Court of his rights under the Alabama Youthful Offender Act, makes application for Youthful Offender Treatment. Hearing on said application is hereby set for <u>3/22</u> 1990, at <u>2:00</u> AM/PM.
	After investigation and examination of the defendant by this Court, defendant's application of Youthful Offender Treatment is hereby <u>denied</u> .
	The Defendant being in open court accompanied by attorney of record, and being duly arraigned does plead not guilty. The Defendant is granted <u>4</u> days to file motions or special pleas. This case is set for trial on the <u>9</u> day of <u>April</u> , 1990, at <u>8:30</u> A.M. Pending trial, Defendant is remanded to jail <u>or released on present bond</u> .
3-26-90	Motion to Require District Attorney to Select Case for Trial
3-26-90	Request for Production

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ACROS72 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 1990 000289.60  
OPER: KAH CASE ACTION SUMMARY  
PAGE: 1 CIRCUIT CRIMINAL  
===== RUN DATE: 10/29/2004  
IN THE CIRCUIT COURT OF LEE JUDGE: RMH

STATE OF ALABAMA

VS

JOHNSON JACKIE LAMAR

CASE: CC 1990 000289.60

AIS#159385

100 WARRIOR LANE

BESSEMER, AL 35023 7299

DOB: 08/12/1970

SEX: M

RACE: B

HT: 5 08

WT: 148

HR: BLK EYES:

SSN: 943000289

ALIAS NAMES:

CHARGE01: RULE 32-FELONY

CODE01:

RULE LIT: ATTEMPT MURDER TYP: F #: 001

OFFENSE DATE:

AGENCY/OFFICER: 0430200

DATE WAR/CAP ISS:

DATE INDICTED: 03/15/1990

DATE ARRESTED: 03/13/1990

DATE RELEASED:

DATE FILED: 03/15/1990

BOND

AMOUNT:

\$100,000.00

DATE HEARING:

SURETIES:

DATE 1:

DESC:

TIME: 0000

DATE 2:

DESC:

TIME: 0000

TRACKING NOS:

DEF/ATY: PRO SE

TYPE: S

TYPE:

00000

00000

PROSECUTOR: ABBETT NICK

===== OTH CSE: 000000000000 CHK/TICKET NO: =====  
COURT REPORTER: SID NO: 011277930 GRAND JURY: 00037  
DEF STATUS: PRISON DEMAND: OPER: KAH

NOTE: 10/13/04 PETITION FOR RELIEF FROM CONVICTION OR SENTENCE  
=====

DATE ACTIONS, JUDGEMENTS, AND NOTES  
=====

10/13/04

*Petition for Relief from Conviction or Sentence*

10/13/04

*On Forme Supra Relator*

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## ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY  
CIRCUIT CRIMINAL

CASE: CC 90 000289 00

IN THE CIRCUIT COURT OF	LEE COUNTY	JUDGE: RMH
STATE OF ALABAMA	VS	JOHNSON JACKIE LAMAR
CASE: CC 90 000289 00		
CHARGE: ATTEMPT MURDER TYPE: F	DATE WAR/CAP ISSUED:	___/___/___
LITERAL: MURDER-ATTEMPTED	DATE ARRESTED:	03/13/90
DEFENDANT STATUS: OTHER	DATE HEARING:	___/___/___
DEFENSE ATTORNEY:	DATE RELEASED:	___/___/___
PROSECUTOR: MYERS, RONALD L	DATE ARRAIGNED:	03/22/90
OFFICER: COUNSEL:	DATE TRIAL:	04/09/90
DATE OF BIRTH: 8-12-70	BOND/TYPE SURETIES:	
RACE: N SEX: M	BOND AMOUNT:	\$100000.00
ALIAS NAME:	DATE INDICTED:	03/15/90
AGENCY: MOPD	DATE FILED:	03/15/90
DC CASE NUMBER: 0 0 0	WORTHLESS CHECK NO:	
GRAND JURY NUMBER: 00037	COURT REPORTER:	
ADDITIONAL INFORMATION AND REMARKS:	SID NO:	001127793

## DATE ACTIONS, JUDGMENTS, CASE NOTES

3-15-90 | Discovery Order

3/22/90 | On this day the defendant, with his attorney, Hon. Thomas  
Reuther, and after being advised by the Court  
of his rights under the Alabama Youthful Offender Act, makes  
application for Youthful Offender Treatment. Hearing on said  
application is hereby set for 3/22, 1990,  
at 2:00 AM/PM.

After investigation and examination of the defendant by  
this Court, defendant's application of Youthful Offender  
Treatment is hereby Denied.

The Defendant being in open court accompanied by attorney of  
record, and being duly arraigned does plead not guilty. The  
Defendant is granted 4 days to file motions or special  
pleas. This case is set for trial on the 9 day of  
April, 1990, at 8:30 A.M. Pending trial,  
Defendant is remanded to jail or released on present bond.

3-26-90 | Motion to Require District Attorney to Select Case for Trial

3-26-90 | Request for Production

4-4-90 | On motion of State, due to absence of lab reports, this case is continued and  
is now reset for trial on June 4, 1990, at 8:30 A.M.

4-9-90 | Motion to Compel Samples from Defendant

RMH  
1990 025 100

## ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY  
CONTINUATIONCASE: CC 90 000289 00  
JUDGE ID: RMH

STATE OF ALABAMA

VS

JOHNSON JACKIE LAMAR

DATE ACTION, JUDGMENTS, CASE NOTES

2-18-90 Motion for Consolidation of Offenses

5-23-90 State's Written Request for Discovery

5-24-90 On State's Motion for Consolidation of Offenses, the Court hereby  
GRANTS said motion.6-12-90 Defendant heretofore having been indicted and arraigned upon an  
Indictment on a charge of Attempted Murderand heretofore having plead not guilty  
thereto, issue joined on said plea. Thereupon comes a jury of good andlawful men and women, to-wit, Jerry L. Smith  
and eleven others, who being duly empaneled, sworn and charged by the  
Court according to law, before whom the trial of this cause was entered  
upon and continued from day to day and from time to time, saidDefendant, Jackie Lamar Johnson, being in open Court  
at each and every stage and during all the proceedings in this cause, now  
on this the 12th day of June, 19 90  
said jurors upon their oaths do say:"We, the jury, find the Defendant, Jackie Lamar  
Johnson, guilty of Attempted Murder as charged  
in the indictment.

Jerry L. Smith, Foreman"

In accordance with the verdict of the jury/the defendant's  
plea of guilty, defendant is hereby adjudged guilty ofAttempted Murderas charged in the indictment. Defendant  
being asked if he had anything to say why the sentence of  
law should not be pronounced upon him, the defendant says

nothing but a sentence report is requested by Defendant.

Sentencing and restitution hearing is set for July 25, 1990,  
at 9:00 A.M. Defendant is to be held without bond until  
said hearing.

~~Amber Jones~~

Case Number

ID YR NUMBER

(To be completed  
by Court Clerk)

## IN FORMA PAUPERIS DECLARATION

Lee Buford Credit Corp  
[Insert appropriate court]Jakie Lamar Johnson  
(Petitioner)

vs.

STATE OF ALASKA  
(Respondent(s))

FILED

OCT 13 2004

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERKDECLARATION IN SUPPORT OF REQUEST TO PROCEED  
IN FORMA PAUPERIS

I, Jakie Lamar Johnson #159385 P-22, declare that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed? Yes \_\_\_\_\_ No ☒

a. If the answer is "yes", state the amount of your salary or wages per month, and give the name and address of your employer.

\_\_\_\_\_

\_\_\_\_\_

b. If the answer is "no", state the date of last employment and the amount of the salary and wages per month which you received.

\_\_\_\_\_

\_\_\_\_\_

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession, or other form of self-employment?

Yes \_\_\_\_\_ No ☒

b. Rent payments, interest, or dividends?

Yes \_\_\_\_\_ No ☒

c. Pensions, annuities, or life insurance payments?

Yes \_\_\_\_\_ No ☒

d. Gifts or inheritances?

Yes \_\_\_\_\_ No ☒

e. Any other sources?

Yes \_\_\_\_\_ No ☒

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

3. Do you own cash, or do you have money in a checking or savings account?

Yes \_\_\_\_\_

No ☒

(Include any funds in prison accounts.)

If the answer is "yes", state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes \_\_\_\_\_

No ☒

If the answer is "yes", describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on October 6, 2004  
(Date)

Xepher Johnson  
Signature of Petitioner

### CERTIFICATE

I hereby certify that the petitioner herein has the sum of \$ 328 on account to his credit at the institution where he is confined. I further certify that petitioner likewise has the foregoing securities to his credit according to the records of said William E. Donaldson Institution:

**COPY FOR COURT  
ATTACHED**

10/6/04  
DATE

[Signature]  
AUTHORIZED OFFICER OF INSTITUTION

STATE OF ALABAMA  
DEPARTMENT OF CORRECTIONS  
W.E. DONALDSON CORR. FACILITY

AIS #: 159385

NAME: JOHNSON, JACKIE LAMAR

AS OF: 10/06/2004

MONTH	# OF DAYS	AVG DAILY BALANCE	MONTHLY DEPOSITS
OCT	25	\$13.21	\$56.00
NOV	30	\$1.49	\$0.00
DEC	31	\$13.24	\$60.00
JAN	31	\$25.00	\$80.00
FEB	28	\$11.19	\$0.00
MAR	31	\$7.22	\$20.00
APR	30	\$0.22	\$0.00
MAY	31	\$84.90	\$200.00
JUN	30	\$1.27	\$0.00
JUL	31	\$1.27	\$0.00
AUG	31	\$1.27	\$0.00
SEP	30	\$3.59	\$45.00
OCT	6	\$16.44	\$0.00

COURT COPY

# PETITION FOR RELIEF FROM CONVICTION OR SENTENCE

# FILED

OCT 13 2004

(Pursuant to Rule 32,  
Alabama Rules of Criminal Procedure)

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

Case Number

CC- 90-288  
ID YR NUMBER

IN THE Circuit COURT OF Lee County ALABAMA

Jakie Lamar Johnson vs. STATE of Alabama  
Petitioner (Full Name) Respondent

[Indicate either the "State" or,  
if filed in municipal court, the  
name of the "Municipality"]

Prison Number 159385 Place of Confinement William F. Dwyer

County of conviction Lee County

NOTICE: BEFORE COMPLETING THIS FORM, READ CAREFULLY  
THE ACCOMPANYING INSTRUCTIONS.

- Name and location (city and county) of court which entered the judgment of conviction or sentence under attack Lee County Circuit Court
- Date of judgment of conviction July 25, 1990
- Length of sentence LIFE
- Nature of offense involved (all counts) 1) Attempted Murder, via Violation of Title 13A-6-2 Code of Alabama (1995)  
2) Rape 1st Degree in Violation of Title 13A-6-6(a)(1) Code of Alabama (1995)
- What was your plea? (Check one)
  - Guilty \_\_\_\_\_
  - Not guilty ☒
  - Not guilty by reason of mental disease or defect \_\_\_\_\_
  - Not guilty and not guilty by reason of mental disease or defect \_\_\_\_\_

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6. Kind of trial: (Check one)

(a) Jury ☒(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐No ☐

8. Did you appeal from the judgment of conviction?

Yes ☒No ☐

9. If you did appeal, answer the following:

(a) As to the state court to which you first appealed, give the following information:

(1) Name of court

*Alabama Court of Criminal Appeals*  
*Direct Appeal*

(2) Result

*Affirmed by Memorandum*

(3) Date of result

(b) If you appealed to any other court, then as to the second court to which you appealed, give the following information:

(1) Name of court

(2) Result

(3) Date of result

(c) If you appealed to any other court, then as to the third court to which you appealed, give the following information:

(1) Name of court

(2) Result

(3) Date of result

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other than a direct appeal from the judgment or conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes \_\_\_\_\_

No ☒

11. If your answer to Question 10 was "yes", then give the following information in regard to the first such petition, application, or motion you filed:

(a) (1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes \_\_\_\_\_

No \_\_\_\_\_

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application, or motion, give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes \_\_\_\_\_

No \_\_\_\_\_

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(c) As to any third petition, application, or motion, give the same information (attach additional sheets giving the same information for any subsequent petitions, applications, or motions):

(1) Name of court \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes \_\_\_\_\_

No \_\_\_\_\_

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(d) Did you appeal to any appellate court the result of the action taken on any petition, application, or motion?

(1) First petition, etc.

Yes \_\_\_\_\_

No \_\_\_\_\_

(2) Second petition, etc.

Yes \_\_\_\_\_

No \_\_\_\_\_

(2) Third petition, etc.

Yes \_\_\_\_\_

No \_\_\_\_\_

ATTACH ADDITIONAL SHEETS GIVING THE SAME INFORMATION  
FOR ANY SUBSEQUENT PETITIONS, APPLICATIONS, OR MOTIONS.

(e) If you did not appeal when you lost on any petition, application, or motion, explain briefly why you did not:

12. Specify every ground on which you claim that you are being held unlawfully, by placing a check mark on the appropriate line(s) below and providing the required information. Include all facts. If necessary, you may attach pages stating additional grounds and the facts supporting them.

## GROUND(S) OF PETITION

Listed below are the possible grounds for relief under Rule 32. Check the ground(s) that apply in your case, and follow the instruction under the ground(s):

- \_\_\_\_\_ A. The Constitution of the United States or of the State of Alabama requires a new trial, a new sentence proceeding, or other relief.

For your information, the following is a list of the most frequently raised claims of constitutional violation:.

- (1) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (2) Conviction obtained by use of coerced confession.
- (3) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (4) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (5) Conviction obtained by a violation of the privilege against self-incrimination.
- (6) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (7) Conviction obtained by a violation of the protection against double jeopardy.
- (8) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (9) Denial of effective assistance of counsel.

This list is not a complete listing of all possible constitutional violations.

If you checked this ground of relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each constitutional violation that you claim, whether or not it is one of the nine listed above, and include under it each and every fact you feel supports this claim. Be specific and give details.

☒ B. The court was without jurisdiction to render the judgment or to impose the sentence.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

☐ C. The sentence imposed exceeds the maximum authorized by law, or is otherwise not authorized by law.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

☐ D. Petitioner is being held in custody after his sentence has expired.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

☐ E. Newly discovered material facts exist which require that the conviction or sentence be vacated by the court, because:

The facts relied upon were not known by petitioner or petitioner's counsel at the time of trial or sentencing or in time to file a post-trial motion pursuant to rule 24, or in time to be included in any previous collateral proceeding, and could not have been discovered by any of those times through the exercise of reasonable diligence; and

The facts are not merely cumulative to other facts that were known; and

The facts do not merely amount to impeachment evidence; and

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If the facts had been known at the time of trial or sentencing, the result would probably have been different; and

The facts establish that petitioner is innocent of the crime for which he was convicted or should not have received the sentence that he did.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

F. The petitioner failed to appeal within the prescribed time and that failure was without fault on petitioner's part.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

**13. IMPORTANT NOTICE REGARDING ADDITIONAL PETITIONS RULE 32.2(b) LIMITS YOU TO ONLY ONE PETITION IN MOST CIRCUMSTANCES. IT PROVIDES:**

"Successive Petitions. The court shall not grant relief on a second or successive petition on the same or similar grounds on behalf of the same petitioner. A second or successive petition on different grounds shall be denied unless the petitioner shows both that good cause exist why the new ground or grounds were not known or could not have been ascertained through reasonable diligence when the first petition was heard, and that failure to entertain the petition will result in a miscarriage of justice."

A. Other than an appeal to the Alabama Court of Criminal Appeals or the Alabama Supreme Court, have you filed in state court any petition attacking this conviction or sentence?

Yes \_\_\_\_\_

No ☒

B. If you checked "Yes," give the following information as to earlier petition attacking this conviction or sentence:

(a) Name of court \_\_\_\_\_

(b) Result \_\_\_\_\_

(c) Date of result \_\_\_\_\_

(attach additional sheets if necessary)

C. If you checked the "Yes" line in 13A, above, and this petition contains a different ground or grounds of relief from an earlier petition or petitions you filed, attach a separate sheet or sheets labeled: "EXPLANATION FOR NEW GROUND(S) OF RELIEF."

On the separate sheet(s) explain why "good cause exists why the new ground or grounds were not known or could not have been ascertained through reasonable diligence when the first petition was heard, and [why the] failure to entertain [this] petition will result in a miscarriage of justice."

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes \_\_\_\_\_

No ☒

15. Give the name and address, if known, of each attorney who represented you at the following stages of the case that resulted in the judgment under attack:
- (a) At preliminary hearing \_\_\_\_\_  
\_\_\_\_\_
- (b) At arraignment and plea \_\_\_\_\_  
\_\_\_\_\_
- (c) At trial \_\_\_\_\_  
\_\_\_\_\_
- (d) At sentencing \_\_\_\_\_  
\_\_\_\_\_
- (e) On appeal \_\_\_\_\_  
\_\_\_\_\_
- (f) In any post-conviction proceeding \_\_\_\_\_  
\_\_\_\_\_
- (g) On appeal from adverse ruling in a post-conviction proceeding \_\_\_\_\_  
\_\_\_\_\_
16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?  
Yes ☒ No \_\_\_\_\_
17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?  
Yes \_\_\_\_\_ No ☒
- (a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_  
\_\_\_\_\_
- (b) And give date and length of sentence to be served in the future: \_\_\_\_\_  
\_\_\_\_\_
- (c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?  
Yes \_\_\_\_\_ No \_\_\_\_\_
18. What date is this petition being mailed?  
\_\_\_\_\_

Wherefore, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

019

## PETITIONER'S VERIFICATION UNDER OATH SUBJECT TO PENALTY FOR PERJURY

I swear (or affirm) under penalty of perjury that the foregoing is true and correct.

Executed on 9-29-04  
(Date)

Jackie Solomon  
Signature of Petitioner

SWORN TO AND SUBSCRIBED before me this the 29 day of September, 2004.

James C. Brachem  
Notary Public  
My Commission Expires  
9-25-2008

OR \*

## ATTORNEY'S VERIFICATION UNDER OATH SUBJECT TO PENALTY FOR PERJURY

I Swear (or affirm) under penalty of perjury that, upon information and belief, the foregoing is true and correct. Executed on \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of Petitioner's Attorney

SWORN TO AND SUBSCRIBED before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Name and address of attorney representing petitioner  
in this proceeding (if any)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## IN THE Circuit Court of Lee County

Jackie Lamar Johnson  
Petitionervs.  
State of Alabama  
RespondentCase No. CC-90-288  
CC-90-289Petitioner's Grounds of Petition

This is an Original Petition  
"Jackie Lamar Johnson", and This is his  
"Petition for Relief from Custody or Seizure"  
Pursuant to Rule 32, Alabama, and in Support  
of Some of his Petitions will show that these  
Hearings are one following to wit:

The Court will grant Petitioner to Revoke  
the Judgment as to impose the Sentence.

I. Personal History.

The Petitioner "Jackie Lamar Johnson", was  
Formerly Arrested by the Lee County Grand Jury  
on 17<sup>th</sup> March 1980, for the offenses  
of Violation of, in violation of  
"Title 3A-6-1 (a) (1)", "Code of Alabama (1975)"  
and 2) "Attempted Murder", in violation of  
"Title 3A-6-2" "Code of Alabama (1975)", and

"Title BA-4-2 'Case of Alabama (1935)'"

Then on June 12, 1990, a Lee County Petit Jury returned Verdict finding the Petitioner guilty of the offense of (1) 1st Degree, and (2) Attempted Murder, As charged in the Indictments.

And on July 25, 1990, the Trial Court conducted a formal Sentencing Hearing and sentenced the Petitioner to life imprisonment for the conviction of 1st Degree, and life imprisonment for the conviction of Attempted Murder.

Then on July 25, 1990, the Petitioner filed timely notice of appeal to the Alabama Court of Criminal Appeals.

And on \_\_\_\_\_, the Alabama Court of Criminal Appeals affirmed by memorandum the Petitioner's conviction and sentence.

## 2. Argument

The Petitioner "Belle Larned Brown", argues that the Trial Court acted without jurisdiction to render the judgment or to impose the sentence in these cases for the following reasons.

Case Number CC-90-289

Attemptal Murder in Violation of Title 3A-6-2  
Code of Alabama (1975) and Title 3A-4-2 Code of  
Alabama (1975)

The Petitioner Stedric Lamont Talmon,  
 alleges that, as evidenced by the Proximate  
 Exhibit A, a copy of the original Proximate  
 Affidavit for this Honorable Court's inspection,  
 the Petitioner was charged with Attemptal Murder  
 in Violation of Title 3A-6-2 Code of Alabama (1975)  
 and Title 3A-4-2 Code of Alabama (1975)  
 in Shaw v. State, 338 So. 3d 111 (Ala. crim. app. 1986)  
 that Court quoting Reynolds v. State, 83 Ala.  
 App. 250, 24 So. 2d 398 (1929), held the following:  
 "It is not within the Province of any Trial Court  
 to modify, change, or alter the Statute of  
 the State of Alabama, and no Trial Judge is  
 vested with the Exercise of Discretion to 'Pink-  
 Rode'"

The Petitioner alleges further that, additionally,  
 a Court had of Subject Matter Jurisdiction is  
 fundamental, cannot be waived and may be  
 raised at any time. McKinney v. State, 549  
 So. 2d 166, 168 (Ala. crim. app. 1989), .

The Petitioner alleges that although he  
 was indicted for Attemptal Murder, the  
 Alabama Criminal Statute for this offense  
 states the following.

023

Topic BA-6-2 Code of Alabama (1925)

Murder

(a) A Person Committed The Crime of Murder if

(1) With Intent To Cause The Death of Another Person

Topic BA-4-2 Code of Alabama (1925)

Attempt

(a) A Person is guilty of An Attempt To Commit a Crime if, With The intent to commit a Specific Offense, he Does Any Act Not Amounting To the Commission of Such Offense.

The Petitioner Argues Further That his Affidavit Exhibit A, States The Following

Did With The intent To Commit The Crime of Murder Section BA-6-2 of The Code of Alabama Attempt To Commit Said Offense by Attempting to Intentionally Cause the Death of Another Person.

One Pet. Time argues that although  
"intent" to commit a crime is a necessary  
element within any "Attempt" statute, it is  
not, in and of itself, a crime to possess  
intent.

The Petitioner argues further that clearly this document exhibits malice on medical as it was not confined to the criminal justice system. 306-2 One of Adams (1995)

Wherefore ~~Memoranda~~ Casual Petitions make  
This Honorable Court to set this Contested  
matter down for a Final Hearing on the  
Merits of the Petitions Chambers in the  
Present Rule 32 Petition.

~~Due This Dec 30<sup>th</sup> day of September 2004~~

Respectfully Submitted

Jackie L. Johnson  
Jackie Lamon Johnson  
Feb 15 9.3 85

William F. Jordan Coastal Hwy  
100 Ulmerville Ave  
Baltimore, Md 21204 35083-7289

*EXHIBIT A*  
 VOL 046 PAGE 199

INDICTMENT

CC-90-289

## THE STATE OF ALABAMA, LEE COUNTY

Circuit Court, March Term, 19 90

The Grand Jury of said County charge that before the finding of this Indictment Jackie Lamar Johnson, alias Jackie Johnson, whose true christian name is otherwise unknown to the Grand Jury, did, with the intent to commit the crime of Murder (Section 13A-6-2 of the Code of Alabama) attempt to commit said offense by attempting to intentionally cause the death of another person, Maquella Lashawn Jones, by choking her about the neck with his hands, in violation of §13A-4-2 of the Code of Alabama.

against the peace and dignity of the State of Alabama.

*Ronald L. Myers*

District Attorney of the 37th Judicial Circuit

Sec. 15-8-150, Code 1975.

026

No. CE-90-289

THE STATE OF ALABAMA  
LEE COUNTY

CIRCUIT COURT

March Term, 19 90

THE STATE  
VS.  
Jackie Lamar Johnson, alias  
Jackie Johnson

INDICTMENT

Attempted Murder \$13A-4-2

WITNESSES:  
Off. Jamie Popwell, OPD  
Sgt. Stan Chapman, OPD  
Lt. Danny Cooper, OPD  
Annie Jones,  
Butterson, OPD  
Keith Burnett, OPD  
Bill Meadows, ETS  
Jamie Davis, EAMC ER  
Dr. Dale Crosby, EAMC ER  
Myquella Tashawn Jones,

No Prosecutor

Grand Jury No. 37

ANDY BILLY  
MAYO Bennett  
Foreman Grand Jury

Filed in open Court on the 15 day of March, 19 90  
in the presence of the Grand Jury.  
Shmitt dany  
Clerk

Presented to the presiding Judge in open Court by the Foreman of the Grand Jury, in the presence of 19 other Grand Jurors, and filed by order of Court this 15 day of March, 19 90  
Shmitt dany  
Clerk

Bail fixed at \$ 100,000  
this 15 day of March, 19 90  
Robert M. Harper  
Judge Presiding

HARPER

Sec. 15-8-70, Code 1975.

Service of Copy of Indictment and List of Jurors on Defendant in Capital Case, Sec. 12-18-120, Code 1975.

THE STATE OF ALABAMA

Circuit Court, Term, 19 90

To the Sheriff of said County:

I hereby certify that this is a true and complete copy of the Indictment presented to the Court by the Grand Jury of said County.

against \_\_\_\_\_ charged with \_\_\_\_\_ together with all endorsements on said Indictment, and that the trial is set for \_\_\_\_\_, 19 \_\_\_\_\_, and you will serve this copy of Indictment on \_\_\_\_\_ or \_\_\_\_\_ his counsel.

Witness my hand, this \_\_\_\_\_, 19 \_\_\_\_\_

I hereby certify that I have received above stated copy of Indictment from the Circuit Court Clerk of said County, and served same on \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., \_\_\_\_\_, 19 \_\_\_\_\_, Sheriff.

D.S.

046 19

027

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

FILED

NOV 02 2004

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

STATE OF ALABAMA,

PLAINTIFF,

v.

CC-90-288, 289

JACKIE LAMAR JOHNSON,  
alias

DEFENDANT.

DISTRICT ATTORNEY'S RESPONSE AND MOTION FOR SUMMARY DISMISSAL  
OF DEFENDANT'S RULE 32 PETITION

Comes now the State of Alabama, by and through its Assistant District Attorney, Robert T. Treese, III, and for response to this the first Rule 32 petition filed by Defendant, shows unto the Court as follows:

Summary of Facts

Defendant (hereinafter "Johnson") was tried and convicted of rape, first degree and attempted murder on June 12, 1990. He was sentenced in each case to consecutive life sentences. A direct appeal followed and the convictions were affirmed via memorandum opinion the certificate of judgment for which was filed on May 2, 1991. In this his first petition Johnson claims the court was without jurisdiction in each case due to a defective indictment which he claims fails to track the language of the statutes involved.

- 1) The State denies each and every allegation in defendant's petition.
- 2) That the defendant has not, with the required specificity, set out any grounds entitling him to relief pursuant to Rule 32.1 (a), (b), (c), (d) or (e) of the Alabama Rules of Criminal Procedure. Accordingly, the District Attorney is not required to address allegations which are not supported by fact and (even if taken as true) do not state a claim. Under such situations "...a court may summarily dismiss the petition without considering the petitioner's response to the State's motion to dismiss, without requiring

the State to specifically refute the claims, and without granting an evidentiary hearing on the claims.” Whitt v. State, 827 So.2d 869 (Ala.Crim.App. 2001).

3) The defendant is precluded from relief pursuant to Rule 32.2 of the Alabama Rules of Criminal Procedure because the grounds alleged in defendant's petition:

- ☐ may still be raised on direct appeal under the Alabama Rules of appellate Procedure or by post-trial motion under Rule 24.
- ☐ was raised or addressed at trial.
- ☒ in part, could have been but were not raised at trial, unless the ground for relief arises under Rule 32.1(b).
- ☐ were raised or addressed in part on appeal *or* partly in a previous collateral proceeding;
- ☒ in part, could have been but were not raised on appeal, unless the ground for relief arises under Rule 32.1(b);
- ☐ Defendant's petition is due to be dismissed because said petition is, at least in part, a second or successive petition on the same or similar grounds on behalf of the same petitioner.
- ☐ Defendant's petition is due to be dismissed because said petition is, at least in part, a second or successive petition alleging a new ground or grounds that were known or could have been ascertained through reasonable diligence when the first petition was heard and failure to

entertain this petition will not result in a miscarriage of justice.

[x] Defendant's petition is due to be dismissed because it is not meritorious on its face and fails to state a claim for which relief can be given.

[x] Defendant's petition is due to be dismissed because said petition was not filed within the allowable period of limitation as set out in Rule 32.2(c) of the Alabama Rules of Criminal Procedure.

[x] Defendant's petition is due to be dismissed because no material issue of fact or law exists which would entitle the petitioner to relief under this rule.

4) Alleged defects to an indictment are waived unless a timely objection appears on the record and the appropriate appeal is filed. Heard v. State, 663 So.2d 973 (Ala. Crim. App. 1995). Petitioner could have made the arguments in advance of trial, at trial or in a post-judgment motion but did not. He could have made the argument regarding jurisdiction on direct appeal but did not. Finally, the indictments in each of the cases do track the language of the statutes in effect at the time. Since the petition is outside the limitations period, the only claims that could be made are those which raise legitimate jurisdictional questions. The current petition does not raise legitimate jurisdictional questions.

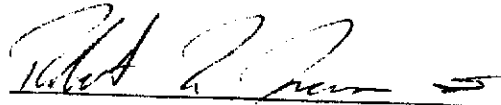
Wherefore, the premises considered, the State of Alabama moves this Court to summarily dismiss Defendant's petition as it is in part time-barred, precluded, insufficiently specific and without merit on its

030

face.

Date: 11-2-04

Respectfully Submitted,




ROBERT T. TREESE, III  
ASSISTANT DISTRICT ATTORNEY  
37TH JUDICIAL CIRCUIT OF ALABAMA

**CERTIFICATE OF SERVICE**

The undersigned certifies that copies of the foregoing were served on the following by depositing same in the U.S. Mail in envelopes, with prepaid first class postage affixed thereto, xx directed to their addresses below and as disclosed by the court file, or      by depositing same in the mail receptacles specifically reserved for them in the Circuit Clerk's Office, Lee County Justice Center, Opelika, Alabama or      via hand-delivery to the Defendant.

Jackie L. Johnson AIS 159385  
Donaldson Correctional Facility  
100 Warrior Lane  
Bessemer, Alabama 35023-7299

Done this the 2<sup>ND</sup> day of November, 2004.



ROBERT T. TREESE, III  
ASSISTANT DISTRICT ATTORNEY  
37TH JUDICIAL CIRCUIT OF ALABAMA

031

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

STATE OF ALABAMA,

v.

JACKIE LAMAR JOHNSON,

Defendant,

\*  
\*  
\*  
\*  
\*  
\*

CASE NO. CC 90-288,289

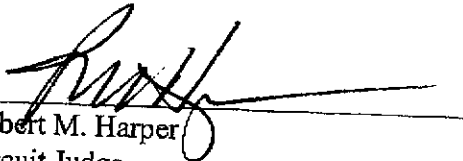
ORDER

This case is before the Court on a Rule 32 Petition filed by the Petitioner, pro se. The District Attorney has filed a Motion for Summary Dismissal.

The Court has considered the matters set forth in the Petition. This petition is not filed in a timely manner.

The Court finds that no material issue of fact or law exists which would entitle the Petitioner to relief under this Rule and that no purpose would be served by any further proceedings. This Petition is dismissed.

Done and Ordered this 22<sup>nd</sup> day of December, 2004.

  
Robert M. Harper  
Circuit Judge

Copy to:

Nick Abbett  
Jackie Lamar Johnson

FILED

DEC 27 2004

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

THE CIRCUIT COURT OF LEE COUNTY

032

JACKIE LAMAR JOHNSON

PETITIONER

VS.

STATE OF ALABAMA

RESPONDENT

CASE NUMBER: CC-90-288 CC-90-289

PETITIONER'S NOTICE OF APPEAL

COMES NOW THE ABOVE STYLED PETITIONER "JACKIE LAMAR JOHNSON" AND FILES THIS HIS  
"PETITIONER'S NOTICE OF APPEAL" PURSUANT TO RULE 4 (b) (1) A.R.A.P. TO THE ALABAMA  
COURT OF CRIMINAL APPEALS FROM THE TRIAL COURTS ORDER DISMISSING THE PETITIONER'S  
RULE 32 PETITION ON DECEMBER 22, 2004

DONE THIS THE 4th DAY OF JANUARY 2005

FILED  
JAN - 6 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

RESPECTFULLY SUBMITTED

Jackie Lamar Johnson  
JACKIE LAMAR JOHNSON  
AIS# I59385 E-22  
WILLIAM E. DONALDSON CORRECTIONAL FACILITY  
100 WARRIOR LANE  
BESSEMER, ALABAMA 35023-7299

CERTIFICATE OF SERVICE

033

I HEREBY CERTIFY THAT I HAVE SERVED A COPY OF THE ABOVE AND FOREGOING UPON THE FOLLOWING BY PLACING A COPY IN THE UNITED STATES MAIL POSTAGE PREPAID AND PROPERLY ADDRESSED THIS THE 12th DAY OF JANUARY 2005 AS FOLLOWS

CC: HONORABLE ROBERT T. TRESSE, III  
ASSISTANT DISTRICT ATTORNEY  
37TH JUDICIAL CIRCUIT OF ALABAMA  
LEE COUNTY JUSTICE CENTER  
2311 GATEWAY DRIVE  
OPELIKA, ALABAMA 36801-6858

CC: HONORABLE TROY KING  
ATTORNEY GENERAL  
STATE OF ALABAMA  
ALABAMA STATEHOUSE  
11 SOUTH UNION STREET  
MONTGOMERY, ALABAMA 36130

RESPECTFULLY SUBMITTED

Jackie Lamar Johnson  
JACKIE LAMAR JOHNSON  
AIS# 159385 E-22  
WILLIAM E. DONALDSON CORRECTIONAL FACILITY  
100 WARRIOR LANE  
BESSEMER, ALABAMA 35023-7299

TO BE COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE OF APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Lee COUNTY  
Jackie Anne Johnson, Appellant  
V. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF \_\_\_\_\_

Case Number CC-90-288 CC90-289 Date of Judgment/Sentence/Order December 22, 2004  
Date of Notice of Appeal \_\_\_\_\_ Indigent Status Granted: ☐ Yes ☐ No  
Oral: \_\_\_\_\_ Written: January 4, 2005

PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT NO REPORTER'S TRANSCRIPT IS EXPECTED AND THAT THE RECORD ON APPEAL SHALL CONSIST OF THE CLERK'S RECORD ONLY. IF THE APPEAL IS FROM DISTRICT COURT OR JUVENILE COURT, I ALSO CERTIFY (1) THAT A STIPULATION OF FACTS WILL BE INCLUDED IN THE CLERK'S RECORD AND THAT THE APPELLANT WAIVES HIS RIGHT TO A JURY TRIAL IF SO ENTITLED; OR (2) THAT THE PARTIES HAVE STIPULATED THAT ONLY QUESTIONS OF LAW ARE INVOLVED AND THAT THE QUESTIONS WILL BE CERTIFIED BY THE JUVENILE/DISTRICT COURT FOR INCLUSION IN THE CLERK'S RECORD (SEE RULE 28(A)(1), ALABAMA RULES OF JUVENILE PROCEDURE, AND §12-12-72, CODE OF ALABAMA 1975).

Signature Jackie Johnson Date 1/4/05 Print or Type Name Jackie Johnson

PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED. Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R. App.P.)):

MARK PROCEEDINGS REQUESTED:

COURT REPORTER(S) \_\_\_\_\_

- A. ☐ TRIAL PROCEEDINGS - Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately.
- B. ☐ ORGANIZATION OF THE JURY - This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)
- C. ☐ ARGUMENTS OF COUNSEL - Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)

WMA

IN ADDITION TO ANY PROCEEDINGS DESIGNATED ABOVE, SPECIAL REQUEST IS HEREBY MADE TO INCLUDE THE FOLLOWING PROCEEDINGS IN THE REPORTER'S TRANSCRIPT PORTION OF THE RECORD ON APPEAL. (ATTACH ADDITIONAL PAGES IF NECESSARY):

ADDITIONAL PROCEEDINGS REQUESTED	DATE	COURT REPORTER(S)
D. _____	_____	_____
E. _____	_____	_____
F. _____	_____	_____
G. _____	_____	_____

WMA **FILED**  
JAN - 6 2005  
IN OFFICE  
CORINNET HURST  
CIRCUIT CLERK

IMPORTANT NOTICE: The court reporter who reported the proceedings for which a transcript is requested must be identified on this form to be effective. Additionally, it is important to note that the appellant may not be permitted to raise any issue on appeal relating to any proceedings in the case that are not specifically designated on this form for inclusion in the reporter's transcript. A general designation such as "all proceedings" is not sufficient. (See Rule 10(c)(2), A.R. App.P.)

PART 3. MUST BE SIGNED IF THE APPEAL WILL HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT I HAVE DISTRIBUTED THIS FORM AS SET OUT BELOW. I ALSO CERTIFY (1) THAT I HAVE MADE SATISFACTORY FINANCIAL ARRANGEMENTS WITH EACH COURT REPORTER LISTED ABOVE FOR PREPARING HIS OR HER PORTION OF THE REPORTER'S TRANSCRIPT HEREIN REQUESTED; OR (2) THAT THE APPELLANT PROCEEDED AT TRIAL AS AN INDIGENT AND THAT THAT STATUS HAS NOT BEEN REVOKED; OR (3) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS.

Signature Jackie Johnson Date 1/4/05 Print or Type Name Jackie Johnson

DISTRIBUTION: Original filed with Clerk of Trial Court and copies mailed to: (1) Clerk of the Court of Criminal Appeals, (2) the District Attorney, (3) the Attorney General or the municipal prosecutor in lieu of the District Attorney and the Attorney General if the appeal is from a municipal conviction, and (4) to each Court Reporter who reported proceedings designated for inclusion in the reporter's transcript.

035

APPENDIX 8B

State of Alabama  
Unified Judicial System

Form ADAP-26 (11-2001)

891

COURT OF CRIMINAL APPEALS  
DOCKETING STATEMENT

Criminal Appeal Number

## A. GENERAL INFORMATION

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ COUNTY COURT

Dakke Lamar Johnson Lee

v. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF

Case Number

CC-90-288 CC-90-289

Number of Days of Filing

Date of Complaint or Indictment

Date of Notice of Appeal

Oral

Date of Judgment Entered

December 2, 2004

Written January 4, 2005

Indigent Status Requested ☒ Yes ☐ NoIndigent Status Granted ☒ Yes ☐ No

## B. REPRESENTATION

Is Attorney Appointed or Retained? ☐ Appointed ☐ RetainedIf no attorney, appellant represents self ☒ Yes ☐ No

Appellant's Attorney (Appointed or Retained) (Attach additional pages if necessary)

Dakke Lamar Johnson

Address  
100 Lamar Lane

Bessemer

Telephone Number

N/A

City and State

Alabama 35003-7004

## C. CODEFENDANTS: List all codefendants and docket number

Codefendant

Codefendant

Codefendant

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

Case Number

## D. TYPE OF APPEAL: Please check the applicable block

☐ State Conviction☒ Post Conviction Remedy☐ Probation Revocation☐ Pretrial Order☐ Contempt Judgment☐ Multiple Convictions☐ Arrest Transfer Order☐ Arrest Delinquency☐ Habeas Corpus PetitionIN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

## E. UNDERLYING CONVICTION CHARGE: Sign below the type of appeal checked in Section D. Please check the box beside each offense category for which the appellant is being convicted or the federal statute is in appeal. Also include the applicable section of the Code of Alabama for State conviction.

☐ Capital Offense☐ Nonfelony☐ Felony☐ Indecent Exposure☐ Drug Possession☐ Possession of Drugs☐ Possession of Firearms☐ Possession of Explosives☐ Possession of Stolen Property☐ Possession of Stolen Vehicle☐ Possession of Stolen Motor Vehicle☐ Possession of Stolen Aircraft☐ Possession of Stolen Motor Vehicle☐ Possession of Stolen Aircraft☐ Possession of Stolen Motor Vehicle☐ Possession of Stolen Aircraft☐ Fraudulent Practices☐ Offense Against Family☐ Traffic - DUI☐ Traffic - Other☐ Offense Against Person

## F. DEATH PENALTY

Is this appeal in a case involving the death penalty? ☐ Yes ☒ No

## G. TRANSCRIPT

Will the record on appeal be transcribed? ☐ Yes ☒ NoIf the answer to question G is "No", will the record on appeal be transcribed? ☐ Yes ☒ No

January 4, 2005

036

COURT OF CRIMINAL APPEALS STATEMENT

TYPE OF POST JUDGMENT MOTION

*Rule 32 Petition*

DATE OF DISPOSITION

*12 22 04*

NATURE OF THE CASE

*1. One Court was without jurisdiction to render the judgment as to impose the sentence*

ISSUES ON APPEAL

*1. One Court was without jurisdiction to render the judgment as to impose the sentence*

FILED

JAN - 6 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

*Justice T. Hurst*

ACR371 ALABAMA JUDICIAL DATA CENTER  
NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS  
BY THE TRIAL COURT CLERK  
IN THE CIRCUIT COURT OF LEE COUNTY  
STATE OF ALABAMA VS JOHNSON JACKIE LAMAR JUDGE: ROBERT M. HARPER

APPEAL DATE: 01/06/2005

INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT:	<input checked="" type="checkbox"/> YES	-----	NO
APP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL:	<input checked="" type="checkbox"/> YES	-----	NO
INDIGENT STATUS REVOKED ON APPEAL:	<input checked="" type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	NO
INDIGENT STATUS GRANTED ON APPEAL:	<input checked="" type="checkbox"/> YES	-----	NO

DEATH PENALTY: NO

APPEAL TYPE: RULE 32 PETITION

THIS APPEAL IS FROM AN ORDER DENYING A PETITION (I.E., RULE 32 PETITION, WRIT OF HABEAS CORPUS, ETC) OR FROM ANY OTHER ISSUED BY THE TRIAL JUDGE.

CO/CASE NUMBER: 43/CC 1990 000288.60

ORDER ENTERED(DATE): 12222004 PETITION: \_\_DISMISSED X DENIED \_\_GRANTED

POST-JUDGMENT MOTIONS FILED:	DT FILED	DT DENIED	CON BY AGREE
--- MOTION FOR NEW TRIAL	-----	-----	-----
--- MOTION FOR JUDG. OF ACQUIT	-----	-----	-----
--- MOTION TO W/D GUILTY PLEA	-----	-----	-----
--- MOTION FOR ATTY TO W/DRAW	-----	-----	-----
--- OTHER	-----	-----	-----

COURT REPORTER(S):

ADDRESS: -----  
-----  
-----

APPELLATE COUNSEL #1:

ADDRESS: PRO SE

PHONE NUMBER:

000-000-0000 00000

APPELLATE COUNSEL #2:

ADDRESS: -----  
-----  
-----

PHONE NUMBER:

APPELLANT (PRO SE):

ADDRESS: JOHNSON JACKIE LAMAR  
AIS#159385  
BESSEMER AL 350237299  
AIS #: 000159385

APPELLEE (IF CITY APPEAL):

ADDRESS: -----  
-----  
-----

I CERTIFY THAT THE INFORMATION PROVIDED  
ABOVE IS ACCURATE TO THE BEST OF MY  
KNOWLEDGE AND I HAVE SERVED A COPY OF  
THIS NOTICE OF APPEAL ON ALL PARTIES TO  
THIS ACTION ON THIS 9 DAY OF Jan 2004

OPERATOR: KAH  
PREPARED: 01/06/2005

---CIRCUIT COURT CLERK---

APPEAL DATE: 01/06/2005

INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT:	<input checked="" type="checkbox"/>	YES	-----	NO
APP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL:	<input checked="" type="checkbox"/>	YES	-----	NO
INDIGENT STATUS REVOKED ON APPEAL:	<input checked="" type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO
INDIGENT STATUS GRANTED ON APPEAL:	<input checked="" type="checkbox"/>	YES	-----	NO

DEATH PENALTY: NO

APPEAL TYPE: RULE 32 PETITION

THIS APPEAL IS FROM AN ORDER DENYING A PETITION (I.E., RULE 32 PETITION, WRIT OF HABEAS CORPUS, ETC) OR FROM ANY OTHER ISSUED BY THE TRIAL JUDGE.

CO/CASE NUMBER: 43/CC 1990 000289.60

ORDER ENTERED(DATE): 12222004 PETITION: \_\_DISMISSED X DENIED \_\_GRANTED

POST-JUDGMENT MOTIONS FILED:	DT FILED	DT DENIED	CON BY AGREE
--- MOTION FOR NEW TRIAL	-----	-----	-----
--- MOTION FOR JUDG. OF ACQUIT	-----	-----	-----
--- MOTION TO W/D GUILTY PLEA	-----	-----	-----
--- MOTION FOR ATTY TO W/DRAW	-----	-----	-----
--- OTHER	-----	-----	-----

COURT REPORTER(S):  
ADDRESS:

APPELLATE COUNSEL #1:  
ADDRESS:

PRO SE

PHONE NUMBER:

000-000-0000 00000

APPELLATE COUNSEL #2:  
ADDRESS:

PHONE NUMBER:

APPELLANT (PRO SE):  
ADDRESS:

JOHNSON JACKIE LAMAR  
AIS#159385  
BESSEMER AL 350237299  
000159385

AIS #:

APPELLEE (IF CITY APPEAL):  
ADDRESS:

I CERTIFY THAT THE INFORMATION PROVIDED  
ABOVE IS ACCURATE TO THE BEST OF MY  
KNOWLEDGE AND I HAVE SERVED A COPY OF  
THIS NOTICE OF APPEAL ON ALL PARTIES TO  
THIS ACTION ON THIS 6<sup>th</sup> DAY OF Jan 2005

OPERATOR: KAH  
PREPARED: 01/06/2005

CIRCUIT COURT CLERK

039

of Alabama Judicial System 9-14 11/91	CERTIFICATE OF COMPLETION AND TRANSMITTAL OF RECORD ON APPEAL BY TRIAL CLERK	Appellate Case Number
THE CLERK OF THE COURT OF CRIMINAL APPEALS OF ALABAMA	DATE OF NOTICE OF APPEAL: 1/6/05	
PELLANT Jackie Lamar Johnson		
STATE OF ALABAMA		

certify that I have this date completed and transmitted herewith to the appellate court the record on appeal assembling in (a single volume of 89 pages) (\_\_\_\_\_ volumes of 200 pages each and one volume of \_\_\_\_\_ pages) the clerk's record and the reporter's transcript and that one copy each of the record on appeal has served on the defendant and the Attorney General of the State of Alabama for the preparation of briefs.

certify that a copy of this certificate has this date been served on counsel for each party to the appeal.

this 3<sup>RD</sup> day of Feb, 2005

Car 2 H A

Circuit Clerk